

June 25, 2002

To: Supervisor Zev Yaroslavsky, Chairman
Supervisor Gloria Molina
Supervisor Yvonne Brathwaite Burke
Supervisor Don Knabe
Supervisor Michael D. Antonovich

From: David E. Janssen
Chief Administrative Officer

FEDERAL LEGISLATIVE UPDATE

Medicaid Disproportionate Share Hospital (DSH) Allotment Freeze: Washington Advocate Susan White reports that on June 21, 2002, the House Energy and Commerce Committee approved the Republican leadership's Medicaid DSH amendment which restores part of the cuts in annual Medicaid DSH allotments to states that, under current law, take effect beginning in Federal Fiscal Year (FFY) 2003. The National Association of Public Hospitals (NAPH) estimates that the amendment would restore about \$55.4 million of the \$174.5 million in FFY 2003 Medicaid DSH payments that California would lose under current law. In comparison, NAPH estimates that, under the County-supported Medicaid DSH freeze bill, H.R. 854 (Whitfield, R-KY and DeGette, D-CO), California would not suffer any Medicaid DSH loss in FFY 2003, and would receive about \$1.7 billion more in DSH funds over the next ten years than under the Committee-approved DSH amendment.

Ms. White reports that Representative DeGette offered an amendment to approve H.R. 854 in Committee that was rejected along party lines with the exception of Representative Bono (R-CA) who voted in favor. Representatives Harman and Waxman, who serve on the Committee, voted in favor of DeGette's amendment. Ms. White also reports that, while Republicans opposed restoring more DSH funds in Committee, some key Republicans are committed to adding more DSH funds at a later time. Representatives Whitfield and Health Subcommittee Chair Bilirakis (R-FL) stated that they have a promise from House Speaker Hastert (R-IL) to increase DSH funding later. Both the Speaker and House Ways and Means Committee Chairman Thomas (R-CA) also told Ms. White that they were committed to adding more DSH funds.

The DSH provisions were considered during the Committee's mark up of a major Medicare prescription drug package. Along party lines, the Committee approved the House Republicans' 10-year \$350 billion Medicare prescription drug package, which had been approved by the Ways and Means Committee along party lines on June 19. Our Washington Advocate reports that the House Republican leadership wants to pass the entire House Medicare and Medicaid package by the end of this week when Congress leaves for its one-week Fourth of July recess.

Other Medicaid: The County's Washington Office has signed onto a letter circulated by health care providers and consumer advocates to urge the House to act on Medicaid improvements this year. The Office also signed onto a letter to the Senate Finance Committee urging that it give states the option to provide Medicaid or State Children's Health Insurance Program (SCHIP) benefits to legal immigrant children and pregnant women who are ineligible due to the five-year bar placed on recent immigrants under the 1996 welfare reform law. Such language could be included in the Temporary Assistance for Needy Families (TANF) reauthorization bill, which the Committee plans to mark up this week.

Medi-Cal Contracting Waiver: The Centers for Medicare and Medicaid Services (CMS) currently is reviewing the State's request for an extension of the Medi-Cal Selective Provider Contracting Program (SPCP) waiver which enables the State to operate the SB 1255 supplemental hospital payment program. As reported to your Board in a May 30, 2002 County Department of Health Services (DHS) memo, CMS is questioning the budget neutrality of the State's SPCP waiver. Washington Advocate Susan White reports that, at the request of CMS, the Office of the Inspector General (OIG) of the U.S. Department of Health and Human Services is reviewing the State's supplemental hospital payment system. The OIG report is expected to be issued in mid-July, and could affect CMS' final review and approval of the State's pending waiver.

Pursuit of County Positions on Legislation

Beginning with Federal Fiscal Year (FFY) 1998, the State of California has incurred Federal fiscal penalties for failing to implement a statewide automated computer system for its child support enforcement program. The State will have paid \$372 million in penalties by the end of FFY 2002, and faces an estimated penalty of \$181 million in FFY 2003. Moreover, because the State is not expected to be in compliance before FFY 2006 at the earliest, it is estimated that the State will have to pay a cumulative total of nearly \$727 million in penalties in FFYs 2004 through 2006.

Each Supervisor
June 25, 2002
Page 3

The Child Support Reinvestment Act of 2002 (H.R. 4857), which was introduced by Representative Matsui (D-CA) on June 4, 2002, would reduce the size of the penalty that California must pay in future years by basing the penalty on a percentage of a state's child support administrative expenditures in the year preceding the first year in which the state failed to have a certified automated system. Under current law, the penalty for non-compliance is based on the expenditure level in the prior year, which means that the penalty increases if a state's expenditures increase. As a result, California has been unfairly penalized for increasing its child support expenditures by an average of 16 percent during the past three years.

The bill also would allow states to reinvest an increasing percentage of its penalty in improving its child support program and automation efforts rather than to lose funds to the Federal Treasury. Without the bill's amendments, California not only would have less funds available to spend on child support enforcement and automation improvements, but also inappropriately would have the incentive to spend less on child support. Moreover, because of its budget problems, the State is proposing that counties pay one half of the Federal penalties.

Based on policies adopted by your Board on April 16, 2002 to support Federal legislation that would revise the child support penalty base and provide states with the option to reinvest the penalties into the child support program, the County's Washington advocates will support H.R. 4857 or similar legislation. H.R. 4857 was referred to the House Ways and Means Committee, which has not taken any action on the bill.

We will continue to keep you advised of any new developments.

DEJ:GK
RT:TJ:MT:zo

c: Executive Officer, Board of Supervisors
 County Counsel
 All Department Heads
 Legislative Strategist